

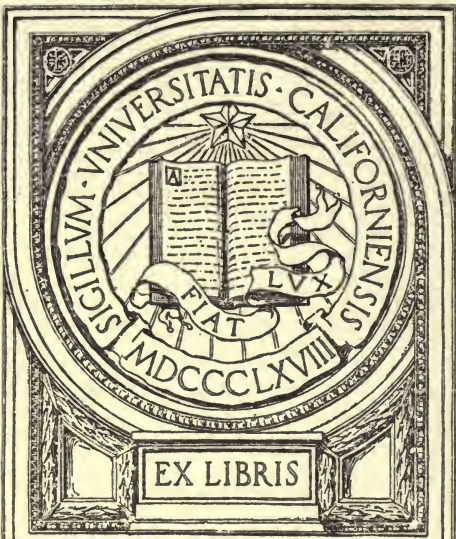
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POLITICAL UNIONS

THE CREIGHTON LECTURE

DELIVERED IN THE UNIVERSITY OF LONDON

NOVEMBER 8, 1911

BY

HERBERT A. L. FISHER

Price One Shilling net

OXFORD

AT THE CLARENDON PRESS

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POLITICAL UNIONS

THREE years ago I was honoured by an invitation to deliver some historical lectures in South Africa. The country still bore upon its face the scars and memorials of the recent war. There were the grim ugly block-houses guarding the railroad, the little crosses of white stone, fresh and glistening in the bright African air, and sprinkled so thickly in the desolate spaces between Estcourt and the Tugela that the train seemed to wind through a continuous cemetery. The rents made by the Boer guns in the Post Office and Hotel at Ladysmith were still gaping; the broken wire was still drawn in front of the long straight trench where the Highland Brigade met with its disaster under the round hills of Magersfontein. In the most lonely and secluded regions, on air-washed kopjes, commanding leagues of waving and utterly solitary veld and with no visible sign of man to disturb the enchanting tranquillity of the scene; you would suddenly kick against a Mauser bullet or the littered fragments of shrapnel mingling with the rugged grey rocks and the short stiff sun-browned grass. And in the haunts of men, behind all the hopeful bustle and good humour of Colonial life, you were never very far from the background of strife, tragedy, and adventure. The human race would indeed be hardly human if, after such a struggle, there were no bitter drop in the cup of memory. In one Dutch village, where the death-roll among the children had been very heavy through a concentration camp, I spoke under a bust of President

Kruger to an audience dressed in mourning, and in a room gloomily hung with crape.

The war had already ceased to be the main topic of conversation. In South Africa events move quickly, and what with repatriation and Chinese labour, a Zulu rising in Natal, and a Constitutional revolution in the two Boer States, quite apart from grave questions of railway and tariff policy, there had been an ample supply of new controversy and distraction. The English Africander, like most Englishmen who seek their fortune in new lands, is of a sanguine mould; and for one conversation which turned upon the past there would be twenty discussions about the future of the country. The Kaffir Circus might boom or slump; everybody was agreed that South Africa would some day become a great and flourishing nation.

The grant of responsible government to the Transvaal had resulted in a Dutch victory at the polls and had put General Botha into office at the head of a *Het Volk* ministry. The scene in the Parliament House at Pretoria was such as could be enacted nowhere save in the free atmosphere of the British Empire. Looking down from the gallery the visitor beheld the rival protagonists of the Civil War divided by a narrow strip of green carpet and exchanging the established courtesies of parliamentary debate. The Speaker was a Boer general and a stalwart lion-hunter whose Anglophobia had been instantly dispersed by the responsibilities of office; his clerk and professional adviser was an Englishman excellently versed in our Constitutional forms. The mace lay upon the table, and old Boer farmers, who began by suspecting it as a symbol of idolatry, now marked their exits and entrances by the bow which is prescribed in the mother of Parliaments. Beneath the

gallery an English member of Lord Milner's Civil Service would watch the fate of some measure which he had helped to draft and might be seen from time to time in consultation with the Boer minister in charge of the Bill. Party feeling ran high, but not to undue lengths nor to the exclusion of social intercourse. It was of good augury that the Cabinet conducted its deliberations in English; and that in its two leading spirits, General Botha and General Smuts, it possessed men of character, generosity, and intelligence. Taking its beating at the polls in an admirable spirit, vigilant but never to the point of unfairness, the English opposition was ready to give its support to proposals conceived upon broad and progressive lines. Responsible government had at last brought the leaders of the two white races together in the everyday communion of parliamentary business and, so far as a stranger might judge, the experiment promised well.

The Union of South Africa was the common ideal of the Dutch and English in the Transvaal. Union alone would avert a tariff war and secure a comprehensive and intelligent treatment of the many grave social and economic questions with which South Africa was confronted. But what shape should union take? Should the sovereignty be divided as in America and Canada or united in a single parliament as in England? All over South Africa men were canvassing the comparative merits of unification and federation. At first the looser federal form seemed the utmost that was desirable and the utmost that could be achieved. It was recommended by the impressive examples of America, Canada, and Australia, by the vast area of the territory to be governed, by the strong colonial and local spirit, and by the improbability that Cape Colony would abandon or the other colonies adopt the much-debated system of the

coloured vote. But a closer examination of South African problems showed that there were superior advantages in the unitary state. South Africa is a large country expensively governed by handfuls of white men. To four parliaments and four executives ruling a rough million of whites the federal scheme would necessarily add a fifth parliament and a fifth executive. Considering that every colony save the Transvaal showed a deficit on its budget, and that every newspaper was already full of the bitter cry of the retrenched civil servant, it seemed unwise to adopt a plan which could not but aggravate the financial situation.

Economy therefore was a strong argument in favour of unification, but it was far from being the strongest. The essence of federation is that in a federal state sovereignty is partitioned. Now the leading problems of South African public life do not without injury admit of partition. The native problem cannot be partitioned. The railway problem cannot be partitioned. It is desirable that with respect both to natives and to railways there should be a uniform policy throughout the Union. In a country depending, as South Africa does, upon coloured labour, the native policy affects almost every department of life, hours of work, wages, domestic life, street police, railways, education, and hence it is impossible in practice to separate the general conduct of native affairs from a great number of other matters which do not obviously appear to be connected with it. In the course of the summer of 1908 the Transvaal delegates to the Convention determined to support unification and, realizing that it is always half the battle to go into committee with resolutions already cut and dried, hammered out the draft of a complete Constitution. Never was there a better expenditure of preliminary

labour. The Transvaal plan was in all its main outlines adopted by the Convention, and the scheme of the Convention has become, almost unchanged, the Constitution of South Africa.

In view of the numerous difficulties which beset the path, the racial suspicions, the extreme reluctance of Natal to place itself under the control of a Dutch majority, the contrariety of industrial interest between the coast colonies and the upland, the enfranchisement of the coloured man at the Cape and the general horror with which that policy was regarded in all the other South African communities, the achievement of Union was a splendid instance of patriotic forbearance. It was made possible partly by the war and partly by the wise and courageous grant of self-government four years later. The autonomous Dutch republics had disappeared, and General Botha and his men had come back from their farms to govern a possession of the British Crown. The desire to emulate the example of the three great Anglo-Saxon unions, to become a nation, weighty in the scales and counsels of the world and immune from those ruinous civil discords which had darkened the history of South Africa, these were the predominant motives. The country was deeply stirred. Closer Union Societies sprang up in every direction and helped, together with an anonymous work upon the Government of South Africa, to tone down racial exasperation and to educate political opinion. It was of immense importance that Generals Botha and Delarey on the one hand and Sir George Farrar and Sir Percy Fitzpatrick on the other, the outstanding figures in the Transvaal, stood for union, for, having through its line to Delagoa Bay an alternative route to the sea and consequently the power of inflicting grave economic damage upon Natal and the Cape, the Transvaal was

mistress of the situation. It is the habit of the Dutch to follow their leaders, and with General Botha pledged to the national policy the victory of union was more than half assured.

The mere fact that communities, previously disjoined, have struck some common measure of agreement or have contrived to find shelter under a common polity does not necessarily imply that the agreement is wise or that the shelter will be rainproof. Some political unions have failed; others have been only half-successful; others again have been brilliantly and buoyantly prosperous. The union of Portugal and Spain formed in 1580 was violently repudiated in 1640 and finally dissolved after a long and dragging war in 1668. The union of Belgium and Holland was an affair of fifteen years; the conjunction of Norway and Sweden endured uneasily for ninety-one years and was then peaceably snapped. Nobody can say that the union of England and Ireland, however necessary it may have been to frame it in the circumstances in which it was framed, or whatever evils may be predicted in certain quarters from its dissolution, has been a source of tranquil development or harmonious feeling. On the other hand there is the classical instance of Scotland, quoted in the Philadelphia convention, adduced as a crushing precedent for Pitt's solution of the Irish problem, and recommended for the consideration of the recalcitrant Norwegians by the government of Stockholm, there is the astonishing conjunction of three separate races with three separate languages first into a league of states and then in 1848 into a true federation among the mountains in Switzerland, there are the three great Anglo-Saxon federations, there is the German Empire and the Italian Kingdom.

Now it is obvious on this survey that the cases of failure have all been cases where the union has been imposed upon one of the parties from without, either by force of arms or by international agreement. Portugal was conquered by Philip II, who taking advantage of the death of King Sebastian and all his peerage at the battle of Alcazir-Kebir, sent a veteran army into the country under the Duke of Alva sufficiently strong to overcome, in a year of drought, plague, and insufficient harvests, the half-hearted opposition of the commons, the students, and the priests. The national opposition of the Norwegians was similarly crushed by an overwhelming display of material force. This country of peasants and fishermen had been transferred from Denmark to Sweden by the Treaty of Kiel, January 14, 1814, as a reward for the services which Sweden had rendered to the allies during the Leipzig campaign. The arrangement, which was signed by England, Sweden, and Denmark, made no provision for consulting the Norwegian people. It was assumed that if the monarchy of Denmark chose to alienate a portion of its dominion to another power, it was perfectly entitled to do so, but Norway thought otherwise. It happened that the governor of the country at this time, Prince Christian Frederick of Denmark, shared the general indignation of the Norwegian people. He permitted himself to be elected king of an independent Norway, and after vain attempts to conciliate the Powers was driven to defend his own title and the pride of Norway by force of arms. The pressure of Europe was not to be resisted. England blockaded the ports and a month's campaign on land and sea showed Norway that she was no match for the Swedes. On August 14, 1815, by the peace of Moss the Norwegians accepted the Crown of Sweden

and were accorded a measure of autonomy almost as great as that which Hanover enjoyed under her personal union with Great Britain.

The case of Belgium presents some obvious analogies to that of Norway, in that the political destiny of both peoples was changed much about the same time in virtue of international agreements made without their knowledge or consent. The Belgians, however, did not fight. As they had passed from Burgundy to Spain, from Spain to Austria, and from Austria to France, so now they passively submitted to the alien rule of a Dutchman. Many regretted the solid advantages of the French connexion. Nobody was enthusiastic for the Dutch. But the country was weary of military quarterings, press censorship, and all the uncomfortable accessories of Napoleonic warfare, and the Belgians acquiesced in an experiment which was not without material advantages and which in any case they were powerless effectually to oppose.

Yet if conquest or the diplomatic compulsion of external Powers is a grave element of weakness, it is not necessarily fatal to the formation and maintenance of a successful union. Hanover and Bavaria fought Prussia in 1866 and are nevertheless loyal members of the German Empire. French Canada and Dutch South Africa are the fruits of conquest, as is the continuance of the Southern States in the American Federation. It is, however, pertinent to remark that save in the case of Hanover and the Southern States of America, the successful political union has not been the immediate or necessary consequence of military ascendancy. Conquest made union possible, but when union came it was founded not upon conquest but upon consent.

Secondly it will be noted that in every case where union has failed, there has been either a linguistic or a

racial difference between the members of the artificial State. A passionate race-sentiment has certainly been the underlying note, as well as the ennobling feature, of Irish discontent. Language was at the bottom of the Belgian revolution of 1830, for the Netherland government with sovereign unwisdom insisted on making the use of Dutch obligatory for admission to public office and employment. In Norway and Portugal, however, linguistic differences were not deciding or important factors, partly because the differences themselves were not very great but mainly because no attempt was made to force Swedish upon Norway or to extrude the use of Portuguese by Castilian. But here again in view of the history of Switzerland and Canada, it is impossible to affirm that linguistic differences—even where as in Wales, South Africa, and Quebec they are jealously preserved—are fatal or necessarily injurious to a harmonious national life. Everything depends upon the amount of external pressure which makes the political union necessary, and the wisdom with which the conflicting claims of rival tongues are harmonized within the state. Geographical distribution is also clearly a factor of the highest importance. If the Transvaal had been as preponderantly Dutch as Natal is preponderantly British, it is doubtful if any power would have brought the two states together. So too in Canada. Had the French not been stationed in the middle waters of the St. Lawrence between two blocks of British settlers, would they ever have been willing partners in a Canadian confederation? If the fates had scattered the French settlers over the flats of Nova Scotia or upon the western slopes of the Rockies it would have required a very strong measure of external compulsion to drive them into political communion with a people alien

alike in descent, language, and religion. As it is, the miracle has been accomplished by stern geographical necessity, assisted by the spirit of British freedom which has cleverly preserved, as it were in Arctic ice, a mediæval society as alien to the temper of revolutionary France as it is fearful of the contagion of republican America.

Great as is the influence of sentiment in politics, it is not all-powerful. Men have material appetites, and communities are swayed, and not without good reason, by the calculus of material profit and loss. The treaty for the Scottish Union was, at the time of its divulgence, bitterly and almost universally denounced in the northern kingdom. The Jacobites, who wanted the Stuarts back upon the throne, were furious at a settlement which involved the acceptance of the Protestant succession. The Presbyterians viewed with dismay the prospect of subjection to a prelatical parliament and a Lutheran king. Lawyers feared the loss of their fees; ministers ejection from their manses; manufacturers and merchants proclaimed the ruin of trade. All the rich men would go up to London and settle in England, and all the money would follow them across the border. The city of Edinburgh saw its doom written large in every line of a document which destroyed the Scottish Parliament and transferred the government from Holyrood to Westminster. For three days Glasgow—then a small country town of thirteen thousand inhabitants, but afterwards destined by reason of the Union to grow into one of the largest ports of the world—was in the power of an anti-Union mob. So fierce and general was the indignation that but for a peculiarly wet and inclement winter the forces of the opposition might have concentrated on the capital and compelled the government to withdraw the treaty. Yet in the course of

a few generations the feeling of injury was completely obliterated. So far from the country being ruined by its connexion with England, it derived from that union immense material advantages. Poor, backward, and ignorant Scotland became within a few generations one of the most prosperous communities in Europe, and this not only by virtue of her admission to the markets of India, America, and England but also because the Union put an end to the political uncertainty and the religious strife which had so long retarded Scottish progress.

The very contrary was the case with Portugal and Ireland. In both these countries union followed a period of material expansion and prosperity and was succeeded by years of economic decline. The wide and resplendent empire of the Portuguese was built up in the later half of the fifteenth and the earlier half of the sixteenth century. Then it was that the Portuguese circumnavigated Africa, colonized Madeira and the Azores, ranged the coast of Guinea for gold, ivory, and negroes, planted a factory at Malacca and laid the foundations of an empire in India and Brazil. Then it was that Camoens found in the romance of Portuguese discovery and conquest the theme for his great patriotic epic. But the conquest of Portugal by Spain exposed these far-flung tropical possessions to the enmities which were assailing the Spanish Empire. The Dutch, excluded from the Port of Lisbon, sailed round Africa to capture the spice trade. They took Malacca in 1631, ousted the Portuguese from Sumatra in 1607, founded their splendid colony in Java in 1618, and occupied Formosa in 1635. The English in the reign of James I won significant victories on the eastern coast of India. Just as the Dutch, when incorporated in the Napoleonic

Empire, were stripped of Java, Ceylon, and the Cape by the power which held the mastery of the seas, so was Portugal, through its incorporation in Spain, assailed in every quarter of the globe by nations more vigorous than itself. A Portuguese writer in 1624, in a treatise which anticipates the modern philosophy of sea-power, urged that the one course capable of arresting the rapid decline of the Iberian Empire was that the capital should be transported from Madrid to Lisbon, and that the total maritime strength of the monarchy should be employed in the British Channel upon the destruction of the Dutch and English navies.¹ Such bold and drastic counsels were thrown away upon the Spanish Court. The kings of Spain treated Lisbon with studied neglect, and in defiance of the solemn promise of Philip II the Cortes of Portugal was only once summoned. The country was taxed without its consent to support a ruinous war, and not unnaturally attributed its calamities to the political connexion with its powerful neighbour. Living in the age of Richelieu, Olivarez may be pardoned for believing that national power depended on administrative centralization, but no policy was less suited to the conditions of the Iberian peninsula; and Portugal, which might have been preserved to the Spanish monarchy by home rule or federation, was driven into revolt by the direct and stringent government of a state under which it experienced the ruin of its trade and the loss of half its empire.

To a very much smaller degree the Irish attitude towards the Union was affected by the contrast between the material prosperity of the years immediately preceding the Act and the period of economic depression which ensued. The Act of Union with Scotland threw open

¹ Manoel Severim de Faria, *Discursos varios politicos*, Evora, 1624.

to the Scottish people the trade with India and the other English colonies and was therefore a direct and palpable cause of the prosperity which ensued. No such benefits could be attributed to the Act of Union with Ireland in 1800. The trade with America and the English colonies had been opened up to Irish adventure between 1778 and 1779; and in the opinion of Mr. Lecky the years between 1779 and the rebellion of 1798 were 'probably the most prosperous in Irish history, as the generation which followed the Union was one of the most miserable'. No material benefit outweighed the unpopularity of a measure consummated by corruption and founded upon religious inequality. From the first it was unfortunately associated with poverty and distress.

It would be folly to urge that economic disappointment was a serious element in the discontent of either Belgium or Norway under their respective unions. Both countries advanced in prosperity, and in the case of Belgium some part of that advance could be directly attributed to the activity of the Government and to the opening out of the Dutch colonies to Belgian trade. Nevertheless, the case for separation was in both instances supported by economic arguments or else by arguments based upon a shifting of economic power after the Union had been contrived. The Belgians argued that their manufactures would have made a swifter recovery under a tariff less obviously designed to suit the seafaring interests of the Dutch, and the Norwegians appealed to the great expansion of their commercial navy as a ground for repudiating a system which appeared to imply that the oversea trade of the Scandinavian kingdom was a matter exclusively interesting to the Swedes. The lesson seems to be that an advance in prosperity will not commend a union which is otherwise unpopular, and that in some

cases it may furnish a direct argument for its destruction.

It will be noticed that in every case where union has been unsuccessful only two communities have been concerned, but in every case (save that of Scotland and England) where it has been successful the number has been greater. Is this a mere chance or can any reason be assigned for it? At first sight it might seem that the conflicting interests of two communities must be more easily adjusted than the rival claims of a larger number. It would appear, however, that the reverse proposition is more nearly true. In a union of two powers there can hardly fail to be a direct feeling of rivalry, and a continuing suspicion either on the one side or the other that the balance is not truly held. But in a polity constructed out of many states or provinces such a feeling is greatly diluted. Indeed, the more complex the interplay of material, religious, and political interests, the more easy is it to discover and to maintain a stable political combination. The danger which came near to breaking up the American Union was not the larger number of states of which the Union was composed—that was a safeguard rather than a danger—but the fact that beneath this show of multiple interests there was an underlying dualism upon a vital matter of social and political principle between the free States of the North and the slave States of the South. Such a dualism is always a source of political peril. The question of slavery cost America a civil war. It is to be hoped that the contrariety of policy with respect to the native franchise which is embalmed in the text of the South African Constitution may never give rise to a similar struggle.

The consolidating influence of multiplicity is equally visible whether we take the case of an old country like

Germany or that of a new country like Canada. One of the principal secrets of German strength lies in the fact that political parties in the Empire do not, save with comparatively trifling exceptions, correspond with state boundaries. There is no party of the Southern or of the Western states. Men vote in groups determined by religious conviction or by any one of the numerous and delicate shades of political opinion into which the mind of an intelligent and complex community inevitably divides itself. If they are Catholics they vote with the Centre; if their interest is in land, with the Agrarians. Radical minds find shelter with the Social Democrats. In younger communities politics are necessarily of a more simple character, and for this reason it is the more difficult for two sharply contrasted bodies of men to live side by side in harmony. The experiment of uniting the French and English colonies of Lower and Upper Canada in a constitutional state broke down hopelessly. The two races hated each other, or if they did not hate, were brimful of suspicion. The machine of government could only be got to work by methods of conciliation almost as objectionable as the disease which they were designed to cure. If a hundred pounds was voted to Scottish dissenters, a similar sum must be squandered upon French Catholics. The public interest was shamefully and continually sacrificed in order that an artificial semblance of equity might be preserved between two peoples whose outlook upon politics was almost wholly obscured by the dominant fact of racial animosity. The remedy for this state of things was found in a wide federation. The discordant state was split into the two provinces of Ontario and Quebec, and these with the provinces of New Brunswick and Nova Scotia were combined under a federal union. Ever since that date

racial opposition has been a slowly diminishing influence in Canadian politics.

The growth of nationalities in the nineteenth century has naturally drawn attention to the racial factor in political life and we may be easily tempted to exaggerate its importance as an agent in the formation of such unions as we have been considering. In no quarter of the globe is racial homogeneity more complete than in Australia. The colonies of Australia were not only settled by emigrants from the British Isles, but, partly owing to geographical situation and partly owing to avowed policy, the whole continent is singularly free from non-British elements. Yet Australia was not federated till 1900, and then only after fifty years of intermittent discussion and debate. Though all the colonies were British, though society and government was practically uniform throughout the habitable portions of the continent, provincial jealousy was sufficiently strong to defeat the federalists until the German flag was planted in New Guinea. What community of blood and origin was unable to effect was accomplished through the fear of foreign danger.

A study of the causes which produced the American and Canadian federations leads to a similar conclusion. A feeling of racial unity and common brotherhood may help a union when it is once formed but is not the original spring of unifying activity. John Quincy Adams said rightly of the Federal Constitution of 1789 that it was 'extorted from the grinding necessities of a reluctant people'. There was hardly an American citizen of that time, who, had some good fairy offered to secure him against the risks of anarchy and civil war, of bankruptcy or foreign invasion, would have lifted a finger towards the construction of a great American nation. The

American colonist of those days believed that a small state was favourable to liberty and that a great state was hostile to it. He accepted the dogma of the philosophers that no great expanse of territory could be governed on the perfect or republican pattern. He cherished his own state, not because it was powerful but because it was modest, not because it was imposing but because it was familiar, as a man cherishes a family heirloom which it is a point of honour to preserve and to hand on with its lustre untarnished to those who should come after. And while he worked for his own state and schooled his ambitions to its service, he was apt to look upon the neighbouring colonies with feelings of suspicion and jealousy which the joint effort of the War of Independence had failed materially to weaken. The American union was not the spontaneous product of fraternal sentiment, but, like almost all the great achievements of statesmanship, a *pis aller*. Nobody relished it. Nobody would have dreamed of suggesting it had it not become abundantly clear that the whole country was drifting into anarchy for lack of a strong central government. As it was, the famous Convention which framed the Federal Constitution was not the product of a declared and open decision of the American people, but a surprise and the result of a manœuvre, and the most belauded constitutional document of modern history was only ratified after a tremendous electoral contest, which, but for the brilliant advocacy of Alexander Hamilton, would probably have had a different issue.

The origin of the modern nation of Canada bears similar though less formidable signs of compulsion and reluctance. The secret of a true federation had been discovered by the Americans, and Canada's way to union was made the easier by the flaming beacon of America's

prosperity. Nevertheless, seventy-eight years divide the Philadelphia Convention from the British North America Act, an interval intelligible enough when we consider the rivalries of race and creed, the vast solitudes and distances, the meagre and scattered settlements, and the imperfect consciousness of any general economic benefit to be obtained through closer union, but illustrative also of the tenacious spirit of Canadian localism. Of the general forces which weakened and dissolved that spirit the most important was the new imagination of space which came to the Canadians, as it has come to all the world, through the invention of the railway. Canada is an example of a nation strung upon a thread of steel and only made possible by the art of the engineer. But if science showed that federation was possible, the harsh logic of politics proved that it was necessary. The reciprocity treaty with America had expired in 1865 and was not renewed. The Constitutional deadlock in the two Canadas had become unendurable and could only be terminated in one way. And south of the frontier stood a nation in arms, thrilling with the tremors of a great war and in its strength, militancy, and union, suddenly conceived as a peril and a warning. If Canada waited longer for federation she might invite attack from the south or lose for ever her chance of spreading to the Pacific. The arguments were as strong as political arguments can be, but it was with the utmost difficulty that the maritime provinces were induced to accept them, and even after Union was happily passed, there was one last fiery outburst of the Secessionist spirit in Nova Scotia and an address to Queen Victoria speaking of 'this free, happy and hitherto self-governed province' and praying that it might not be reduced to 'the degraded condition of a servile dependency of Canada'.

More than a hundred and twenty years have passed since the framers of the American Constitution sat at Philadelphia. Steam and electricity have revolutionized transport, and almost all the economic processes which affect the material life of man have undergone a complete transformation. We should therefore naturally expect that a form of polity designed to meet the needs of the American Colonies at the end of the eighteenth century is neither strictly applicable to their modern requirements nor capable of being profitably transplanted to other modern communities. This is in fact the case. The Constitution of 1789 still rules America, for the amendments have neither been numerous nor, with the one exception of the abolition of slavery, of the first importance. Yet if the work had to be done over again now, it is improbable that any American statesman or thinker would construct an executive so independent of the legislature, or a legislature so independent of the executive, or would assign to the several States of the Union so large a measure of autonomy as that which they still enjoy. The members of the Philadelphia Convention dreaded above all things a powerful and tyrannical executive. They had been taught that the enemy of American liberties all through history had been a monarchy served by a standing army and a venal parliament, and that it was a government so contrived which had first enslaved the population of Great Britain and then attempted to reduce the less docile colonists of America. To the ordinary American citizen who lived upon republican platitudes without any close examination of their relevance, the example of Great Britain was full of terrible warnings. It illustrated the vices of tyranny and the dangers of wealth, the ease with which a popular legislature may be reduced by

a too-powerful executive, or a free people may be coerced by mercenary soldiers. The colonies of New England had been founded by men who had fled from the despotism of Charles I, and followed with sympathetic eyes the great struggle for Constitutional freedom which ended with the fall of the House of Stuart. The classic names of Hampden and Pym and Cromwell were as famous on the shores of the Potomac as they were in the cottages of Bucks or Huntingdon. The classic safeguards of English civil and political liberty, the Habeas Corpus Act, the parliamentary control over taxation, were equally cherished on both sides of the ocean. To many minds the main anxiety as to the future was the doubtful fate of republican virtues under any large scheme of polity. Could a republic govern a vast expanse of territory? Could a great state exist without a strong executive and a standing army? These anxieties are printed on every line of the American Constitution.

The picture which the men of the Philadelphia Convention drew for themselves was that of a community of simple yet prosperous republics, recruited by European immigrants of moderate fortunes, protected by a citizen militia, and distinguished by its immunity from luxury and want. One speaker maintained that it was improbable that the number of rich men in America would ever be greatly increased; another asked whether it was conceivable that so vast a country could be held together under one polity for a hundred and fifty years. Madison thought that the new States of the future would be necessarily agricultural. What member of the Convention would have dreamt that the centre of industrial and political power might some day be removed from the Atlantic seaboard to the unexplored wilds beyond the waters of the Mississippi?

Which of those Puritan fathers could divine that he was providing a political shelter for a Roman Catholic community of some fourteen millions? Who would have predicted that a State of the Union, exercising constitutional powers, might so regulate or forbid the immigration of alien labour as to compromise the international relations of the Federal government? Could it be granted to Wilson or Franklin to revisit at the opening of the twentieth century the great republic, they would hardly recognize in that restless and polyglot society, with its princely fortunes and squalid slums, its bosses and trusts, its grafts and Tammanies, its yellow press and its lax divorces, the lineaments of their Puritan ideal. The danger apprehended at the present day is just the reverse of the peril which the fathers of the Constitution were most concerned to avoid. They lodged the residual power in the separate States and jealously doled out certain defined functions to the national government. But the present impression is not that the Federal authority is likely to be too strong but that it is certainly too weak. Modern economic development, placing as it does enormous power in the hands of individuals or companies, requires for its control the weight of a strong, pure-handed impartial government; and it is the special weakness of the American Federation that in a community distinguished above all others for enormous aggregations of capital the machinery for giving effect to the ideal of social justice is less effectual than it is in any other highly-civilized State.

The Constitutions of Canada, Australia, and South Africa, while borrowing hints from America, are framed upon a plan of greater concentration. The men who were mainly concerned in drafting the British North

America Act favoured a Constitution upon the British model. They had no republican distrust of a strong executive, and in the American Civil War they saw the dangers to which a federation is exposed. But though the railways had weakened the mechanical argument against a legislative union, there was one stubborn block of obstruction which no civil engineering in the world could overcome. This was the French Province of Lower Canada. Whatever scheme of union might be formed, the French must be guaranteed their religion, their law, and their language. Had the two white races been intermingled, as they are in South Africa, or if the opposition between them had been, as it is in South Africa, confined to the two points of race and language, adequate guarantees might have been procured for the French under a legislative union. As it was, a federation alone could satisfy differences so wide-ranging and a geographical position so compact. The French in Canada would not willingly have entered a legislative union, but under a federal plan they obtained adequate assurance that their distinctive nationality would be preserved. But this concession to centrifugal tendencies once made, the plan of the Québec Resolutions and of the Act founded upon them proceeds upon the hypothesis that a strong national government is a good and wholesome thing. The Senate, which represents the federal principle in the Constitution, is designedly weak. The legislative powers exclusively assigned to the Parliament of Canada are wide and numerous. The Governor-General of Canada in Council appoints the provincial governors and may exercise a veto upon provincial legislation, while upon the two important subjects of agriculture and immigration it is competent to the Dominion Parliament to make general laws, which in

case of conflict override the enactments of the Provinces. The Constitution was hastily drafted and the partition of exclusive legislative functions between the Dominion and the Provinces has been so defined as to give rise to much ambiguity and litigation. But though the tendency of legal decisions has been to strengthen the position of the provincial legislatures, the Government of the Dominion stands out in sharp contrast to the Government of the United States. At Ottawa the Cabinet reflects the opinion of the majority of the popular assembly and controls the conduct of Parliament. At Washington the Cabinet is neither named by Congress, nor a sharer in its deliberations, nor a dictator of its policy. In Ottawa the Dominion Parliament has wide powers specifically and exclusively ascribed to it. At Washington Congress legislates within a comparatively narrow ambit. Finally, in Canada the residual legislative power is lodged with the central Parliament, in America with the several States.

I have heard Sir Wilfrid Laurier, the brilliant patriarch of Canadian Liberalism, lecture at Montreal upon the comparative advantages of the Canadian and American forms of government. He reminded those of his hearers who might be tickled by the name and fame of a republic, that under the Canadian scheme the voice of the people was more effectually heard and the power of the central government more effectually exercised. The fact is that crime is punished in Canada, and that the Canadian police is the envy of many of the less fortunate States of the American Union.

Mr. Bryce has pointed out that though the reasons and grounds assigned by the advocates of Australian federation were more numerous than those urged by the United States in 1787-9, or in Canada in 1864-6,

none of them was so imperative.¹ There was no fear of anarchy or bankruptcy or Civil war. There was no Constitutional deadlock or apprehension of invasion. The six Australian colonies might have continued to enjoy their several existences with no more serious drawbacks than the presence of internal tariffs and the absence of uniform provisions upon some matters, such as the entrance of coloured races, as to which it was desirable to enforce a common rule throughout the continent. Still the six colonies chose to unite. The motives of those who urged this course were partly sentimental, partly practical, a compound of national idealism and reasoned economics. They desired a great and progressive Australia; but at the same time, since union was a matter rather of fine sentiment and the balance of expediency than of sheer political necessity, they were precluded from drawing the bonds very tightly.

The Commonwealth Government of Australia is stronger than that of America and weaker than that of Canada. The unallotted legislative powers rest with the States, and since the Commonwealth Senate is elected upon a wide democratic franchise, it is a more powerful body than its nominated Canadian counterpart. On the other hand, while the powers exclusively invested in the Commonwealth Parliament are comparatively few, the powers which it may wield concurrently with the States are extremely numerous, and it may well come to pass that the Commonwealth Government of Australia may by degrees establish a tradition of legislative activity so great as to confine the action of the separate State parliaments within very narrow limits indeed. The skilled Australian lawyers who drew the Commonwealth Act infused into it as much elasticity as is com-

¹ *Studies in History and Jurisprudence*, i. 477.

patible with the nature of a written Federal Constitution. They realized that the life of a nation is subject to the law of continual change, and they conceived of a Constitution not as a settled balance of unchanging interests, but as an organ taking up into its substance the living and moving forces around it. The sentiment of local self-sufficiency was strong in 1898, and therefore it was reverently treated in the Commonwealth Act. But the framers of the Australian Constitution saw that as the nation grew older it would attract to itself more and more of attachment and reverence, and that loyalty to the Commonwealth would supersede loyalty to the State. Accordingly they made organic change easy, and provided politic facilities for the extension of the central power.

This feeling for greater elasticity and a higher measure of national as opposed to provincial authority reaches its climax in the South African Constitution. That part of the British Dominions which seemed to be least harmonious has in effect adopted the strictest form of political union. The parliament of Cape Town is in fact a sovereign parliament. The restrictions upon its power contained in the Constitution are for a time only, and will pass away: and when this happens it will be for the wisdom of the sovereign body freely to determine how much or how little of devolution it will permit.

Three concluding reflections. Nobody can study the history of political unions without feeling on the one hand how much they have contributed to the peace and civilization of the world, and yet on the other how success has only been attained by the close study of interests which to the philosophic observer may seem unimportant and paltry. Not the least among the grievances of the Portuguese was that the Spanish king was so infrequent

a visitor to Lisbon, and not the least of the difficulties which has confronted the Unionists of Australia and South Africa has been the selection of a capital. It has more than once happened that negotiations have been nearly wrecked upon a point which seems curiously trivial now, but which was the matter of passionate controversy at the time, and that the situation was saved by a solution entirely unsuited for epical treatment. Such was that famous 'equivalent' or lump sum in compensation for the Scottish revenues allocated to the service of the debt 'without which', writes Defoe, 'it had been impossible to bring this Union to a conclusion, nor was the way ever seen clear towards a Union, till the project of the equivalent was thought of.' Such too was the 'Braddon clause' which limited for a period of years the expenditure of the Commonwealth Government of Australia. Hard bargains made over temporary but urgent interests are characteristic of these great collective acts of statesmanship.

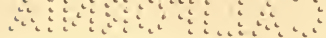
Οὐδὲν μέγα ἄνευ χρόνου γένοιτ' ἄν. Great unions are the product of Time. The Scottish union was prefaced by the conjunction of the crowns in 1603 and by the recognition of the Presbyterian Church as the established Church of the Kingdom in 1690. The story of the American Union is not comprised in four months of secret conclave in Philadelphia, but extends from the formation of the Continental Congress in 1774 till the passing of the Fifteenth Amendment in 1869. Germany was united in two, Italy in four stages, supervening upon a long period of historical preparation. In the British Empire the process has been easier and quicker, and the reputations earned by unionist statesmen are deservedly less than those which history accords to Bismarck and Cavour. Yet so long as racial antagonism

remains the framework of political parties, union is never complete or comfortable. The cleft is very deep in Canada, for it goes down to all the roots of life, and it is given to the Irish alone, sharing as they do the religion of the French and the language and culture of the British, to cross and recross from side to side. In South Africa, as the contrariety of creed and temperament is less, so the position of the two white races in a land overwhelmingly populated by blacks supplies a permanent ground for common action which is wanting to the Canadians. Yet if the true Union tarries, this will not be contrary to the lessons of history, nor need it cause us to feel despair.

The publication of the minutes of the South African Convention brings to a close a series of historical records, so instructive and important that, with the single exception of the Acts of the first assembly of revolutionary France, there is no body of modern political literature to compare with it. It opens with the notes and journals of the constitutional discussions at Philadelphia and comprises those ampler volumes of debate which illustrate the origins of the three great unions of our oversea dominions. Advisedly we may call these documents unique, and affirm that no other race can show a similar record of the grandest problems of political architecture settled by a process of temperate discussion. It is not the most romantic or impressive way of achieving national unity. The way of Garibaldi was more romantic, the way of Bismarck was more impressive, but it is the only way for democracies inured in the traditions of self-government and freedom. In these fundamental records of Anglo-Saxon political life the reader will, from time to time, come across indications of that noblest type of political oratory, which springs

from a generous imagination when it is filled with the grave and appealing image of national destiny. But it is not primarily for demonstrations of eloquence that we should recur to these records. There was never—and for this there is no call for ingratitude—in any constitutional convention of the Anglo-Saxon race a galaxy of orators who could vie with the great parliamentarians of the July monarchy or with that fiery band of southern advocates who drove revolutionary France into war. The constitutions of which we speak were hammered out by ordinary men and in an atmosphere of mixed and blended motive, only partially clarified by the rays of a larger patriotism. In these debates we may trace the play of doubts and fears, of clashing interests and varying sentiments, of occasional strokes of political genius, such as the invention of the Federal Senate, mixed with time-serving expedients and the promptings of a narrow and jealous particularism. Historical experience frequently invoked and narrowly assessed, as by the Americans with their Lycians and Achaeans, their Scots and their Switzers, was never allowed to overpower the driving needs of the moment. History was treated as a servant, not as a master. Each nation took what it wanted from the past and made the new experiments which were adjusted to its particular state. We have borrowed from the Americans, but never so closely as did the Swiss Commission of 1848. We tolerate anomalies shocking to the geometrical mind. The British State is Anglican south of the Tweed, Presbyterian north of it. The Kaffir is a political animal in Cape Town, a living tool in Johannesburg. Learned doctors of the Catholic Church have expressed dismay that a nation so intelligent should exhibit upon the grave matters of the Faith so lax a principle, so faint a

courage. More heroic were it to lose the Netherlands with Alva than to gain Scotland with Somers. We will not discuss the thesis. It is sufficient to remark that the Constitutions of the great Anglo-Saxon Unions do present many gross marks of compromise, and that they are full of shocking anomalies,—the anomalies which belong to a race logical only in its pursuit of freedom.



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